

# Joint Legislative Oversight Committee on Health and Human Services

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## Involuntary Commitment

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### Topics

1. Overview of Law
2. Recent Legislation

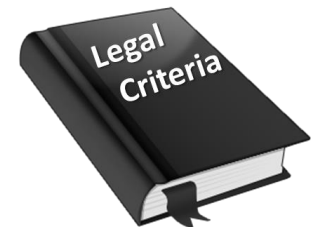
# Involuntary Commitment

- Criteria—The grounds for court-ordered treatment.
- Procedure—The process for obtaining court-ordered treatment.



# The Criteria for Commitment

1. **Inpatient commitment**—mentally ill + dangerous to self or others
2. **Substance abuse commitment**—substance abuser + dangerous to self or others
3. **Outpatient commitment**—mentally ill, capable of surviving safely in the community, in need of treatment to prevent dangerousness, and unable to voluntarily seek or comply with treatment
  1. mental illness
  2. substance abuse
  3. dangerous to self
  4. dangerous to others



# The Petitioner

The individual who asks the magistrate—through the submission of a sworn affidavit—to commence the commitment process

The affidavit is also called a petition



# The Respondent

The individual who is the subject of the petition and—if the magistrate commences the commitment case—

- Will be examined by a commitment examiner
- Will have the opportunity to respond to the petitioner's allegations at a court hearing

# The Magistrate

- Determines whether there are reasonable grounds to believe that
  - the facts alleged in the affidavit are true, and
  - the respondent probably meets the criteria for commitment
- Orders custody and evaluation of the respondent



# Law Enforcement Officer or Designated Person

Responsible for the custody and transportation of the respondent during the commitment process.

- **Law-enforcement officer**—a sheriff, deputy sheriff, police officer, State highway patrolman, or an officer employed by a city or county under G.S. 122C-302 (officers employed and trained to assist individuals who are intoxicated in public).
- **Designated person**—a person designated in the transportation plan of a city or county, adopted under G.S. 122C-251(g), to provide a part or all the transportation and custody required by the involuntary commitment process.

# Law Enforcement Officer

Upon receipt of the custody order, the law enforcement officer must take the respondent into custody within 24 hours after the order is signed



Without unnecessary delay, the officer must take the respondent to a physician or psychologist for examination.



# The Commitment Examiner

Examines the respondent to determine whether the respondent meets the statutory criteria for commitment

- Physicians
- Psychologists
- If qualified through DHHS training and certification:  
licensed clinical social workers, masters level or higher  
nurse practitioners, physician assistants, licensed  
professional counselors and licensed clinical  
addictions specialists



# Commitment Examiner Role—Findings and Recommendations

## Findings

## Result

Commitment criteria not found



Release

Outpatient commitment



Release pending  
hearing

Inpatient commitment



Inpatient facility

Substance abuse commitment



Release or inpatient  
facility



# 24-Hour Facility

For involuntary commitment purposes, a facility:

- Whose primary purpose is to provide treatment for mental illness, developmental disabilities, or substance use disorder
- That provides a structured living environment and services for a period of 24 consecutive hours or more, and
- That is designated by NC DHHS as a facility for the custody and treatment of involuntary clients



# The Clerk of Superior Court

- Receives the findings and recommendations of commitment examiners
- Maintains the court record containing the petition, custody order, and commitment examination forms
- Calendars the case for a hearing
- Appoints an attorney to represent the respondent

# The District Court Judge

Orders commitment of the respondent if there is clear, cogent, and convincing evidence that the respondent meets the criteria for commitment



# Clinician Petition Process

If the petitioner is a “commitment examiner” who has examined the respondent, then personal appearance before the magistrate is not required.

- Sign the “Affidavit and Petition” before an official authorized to administer oaths (notary), then
- File the examination and affidavit forms by delivering copies through facsimile or electronic transmission



# Overview of Commitment Procedure— Three Procedural Pathways

Petitioner

Magistrate  
Custody  
Order

1<sup>st</sup> Exam:  
Hosp. ED or  
MH facility

2<sup>nd</sup> Exam:  
24-HR  
Facility

District Court  
Hearing

Clinician Exam & Affidavit  
Hosp. ED or MH facility

Magistrate  
Custody Order

2<sup>nd</sup> Exam:  
24-HR  
Facility

District Court  
Hearing

Clinician Emergency  
Certificate

District Court  
Review

2<sup>nd</sup> Exam:  
24-HR  
Facility

District  
Court Hearing

**S.L. 2018, SB 630, effec. 10/1/2019**

# First Examinations: Who, Where, and How





# Commitment Examiners

## G.S. 122C-263.1

- Any physician
- Any PhD psychologist with a health services provider certificate
- If certified by DHHS after training and testing:
  - Licensed clinical social worker
  - Master's level psychiatric nurse
  - Master's level nurse practitioner
  - Licensed clinical mental health counselor
  - Physician assistants
  - Master's level licensed clinical addictions specialist



# Community Crisis Services Plans

## Sec. 8, New G.S. 122C-202.2

- Intended to divert commitment respondents needing 1<sup>st</sup> exam from hospital ED to mental health facilities
- Requires LME/MCOs to identify and contract with entities for first IVC examinations
- Law enforcement officer transporting respondent for 1<sup>st</sup> exam shall go, in priority order, to:
  - A provider identified in the community plan
  - An acute care hospital or State facility



# IVC Transportation Agreements

## Sec. 19. GS 122C-251(g)

- Every county must adopt an agreement
- Agreement may designate persons other than law enforcement officers to carry out all or part of the transportation and custody.
- Designated persons must participate in training identified by the LME/MCO that, to the extent feasible, addresses
  - use of de-escalation strategies and techniques
  - safe use of force and restraint
  - respondent rights relative to involuntary commitment

# Questions?

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